

REMARKS

Review and reconsideration of the Office Action of January 12, 2005 are respectfully requested in view of the above amendments and the following remarks.

Claim 1 has been amended based on the main illustrated embodiment, including "crank part" from paragraph 0020, and correcting element 8 from "pivot axis" to "vane shaft" according to paragraph 0012.

Applicants appreciate the indication that claims 5, 7, 10-11 and 16 are merely objected to and could be made allowable by amending claims 5 and 7 to independent form. As claims 5 and 7 are now in independent form, indication of allowability of claims 5, 7, 10-11 and 16 is respectfully requested.

With regard to claim 1, Applicants acknowledge that the terms "first transmission element" and "second transmission element" were broad. As discussed in the specification, paragraph 0008, the sliding could occur either at the unison ring or at the vane shaft. The paragraph goes on to state that it is more favorable when the force transmission mechanism involves pivoting at the unison ring and sliding at the vane shaft. As discussed in paragraph 0007 of the specification, the actuating lever preferably extends into a bore in the vane shaft in a combined pitman mechanism and slider crank mechanism, perhaps best referred to as a "dragged lever mechanism", resulting in a near perfect adaptation of the adjustment moment to the moments acting on the guiding vanes. Applicants have

amended claim 1 to more specifically claim this dragged lever mechanism which is not disclosed or suggested in the prior art.

Accordingly, reconsideration and allowance of claim 1, and thereby all claims depending from claim 1, is respectfully requested.

Office Action

Turning now to the Office Action in greater detail, the paragraphing of the Examiner is adopted.

Specification and Examiner's Suggestions to Claims Language

The Examiner objects to the abstract and the specification because of informalities.

Applicants thank the Examiner for the many helpful recommendations for improvement of the text. Applicants have amended the specification based on the Examiner's recommendations.

The Examiner also provides suggestions for improving the clarity and precision of the claims.

Applicants adopt the suggestions of the Examiner, with thanks.

Withdrawal of the objection is respectfully requested.

Claim Objections

The Examiner objects to claims 7 and 14-15 because of certain informalities.

Applicants appreciate the helpful nature of the suggestions and have adopted all amendments proposed by the Examiner.

Withdrawal of the objection is respectfully requested.

Claim Rejections - 35 USC §112

The Examiner rejects claims 12-14 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In response, Applicants amend claim 12 by incorporating clarifying language from claim 5.

Withdrawal of the rejection is respectfully requested.

Claim Rejections 35 USC §102

Claims 1-2, 4, 8 and 17-19 are rejected under 35 U.S.C. §102(b) as being anticipated by French Patent No. 1,442,174.

Applicants respectfully traverse in view of the amendments to claim 1.

For an "anticipation" rejection, every element of a claim must be found in the cited reference.

Claim 1, as amended, requires:

a plurality of guiding vanes (7) arranged around a central axis (R),

each vane (7) being connected to a vane shaft (8) pivotal about a pivot axis, said vane shaft further including a crank part (16);

a transmission mechanism (16-19) by which the unison ring (5) is connected to the vanes (7) for pivoting said vanes (7) about

their respective pivoting axes (8), wherein the crank part (16) has an opening (18) in which a drag lever (17) is slidably guided,

wherein said drag lever (17) is pivotably guided on an associated ring and wherein said drag lever (17) immerses into said opening (18) of the crank part (16) in an approximately radial direction.

The Examiner is referred to Fig. 3 showing the first crank part 16 with the opening 18 in which the drag lever 17 is slidably guided.

French Patent No. 1,442,174 (French '174) has a German patent family member DE OS 1502527, a copy of which is attached hereto for the reference of the Examiner. As explained in the DE reference, blade shaft 10 has a blade of the variable nozzles on one end, and the other end is **fixedly** ("fest") connected to a pivot lever 16. It is further explained that, in addition to the pivot lever fitting tightly in the bore 20, there are further provided locking elements 21 for preventing movement of the pivot lever in the bore. The last sentence of the specification indicates that the pivot lever 16 may be fixed to the vane shaft via a threaded nut.

Accordingly,

- since the present crank part (16) corresponds with one end of the blade shaft of French '174,
- since the present drag lever (17) corresponds to the pivot lever of French '174,

- since the blade shaft of French '174 does not have an opening in which a pivot lever is **slidably** guided, it is clear that French '174 does not anticipate the present claims.

It is noted that French '174 teaches spherical sliding stones 27 with bore holes 28 in which the end of the pivot lever opposite to the vane shaft is slidably guided. However, this is a different design from the present invention, inferior, as discussed in paragraph 0008, in assembly, hysteresis, moments and friction characteristics. As the adjustment shafts 8 are pivoted within the nozzle ring 6 they have a special characteristic of movement and moment. One consequence is that, in accordance with the present invention, the maximum surface pressure of the dragged lever 17 to the inner surface of the opening 18, and vice-versa, is relatively small so that wear is also small and reliability in operation is high. Because surface pressure is always exerted at least approximately perpendicularly to the respective surface, no one-sided loads will occur.

Next, Claims 1-4, 6, 8 15 and 17 are rejected under 35 U.S.C. §102(b) as being anticipated by Hanselmann (U.S. Patent No. 3,146,626).

For an "anticipation" rejection, every element of a claim must be found in the cited reference.

Present claim 1 has been amended to claim a turbocharger.

Hanselmann concerns a torque converter, classified in class 74, subclass 96. While the mechanism appears to have structural

similarity to the present claimed mechanism, the environment of use is much less hostile, and it is apparent from the light weight engineerint - lever arm 6 is simply made of bent sheet metal - that this design was never intended to be used in an environment such as a turbocharger. Further, the lever arms are preferably resilient to provide a spring effect (col. 2 line 53 on) so that no high precision need be met during manufacture, yet the blades will all properly close due to the resiliency of the lever. Such imprecise manufacturing and free-play is absolutely not acceptable in the operation of a turbocharger, further demonstrating that this reference has no relation to the present invention.

Accordingly, withdrawal of the rejection is respectfully requested.

Claim Rejections 35 USC §103

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hanselmann (U.S. Patent No. 3,146,626).

In response, Applicants respectfully submit that claim 9 is allowable by virtue of it's dependency from allowable claim 1.

Prior Art

The Examiner considers the prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicants have reviewed this prior art and have no further comments.

U.S. Application No.: 10/706,180
AMENDMENT A

Attorney Docket: DKT02151

Allowable Subject Matter

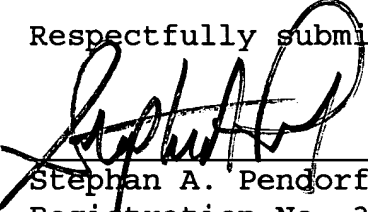
Claims 5, 7, 10-11 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicants have amended claims 5 and 7 to independent form, in order to obtain indication of allowable subject matter, but nevertheless also argue against the rejection of the remaining claims, in view of the amendment of claim 1.

Early issuance of the Notice of Allowance is respectfully requested.

Should the Examiner have any further suggestions he is respectfully requested to contact the undersigned at the indicated telephone number.

Respectfully submitted,



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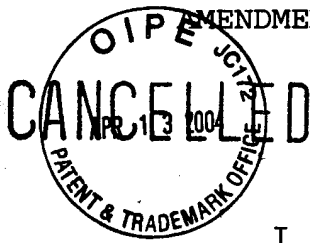
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Dated: **April 11, 2005**



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AMENDMENT A

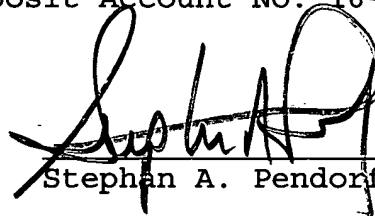
Attorney Docket: DKT02151



CERTIFICATE OF MAILING AND AUTHORIZATION TO CHARGE

I hereby certify that the foregoing AMENDMENT A for U.S. Application No. 10/706,180 filed November 12, 2003, was deposited in first class U.S. mail, with sufficient postage, addressed: Mail Stop Amendment, Commissioner of Patents and Trademarks, P.O. Box 1450, Alexandria, VA 22313-1450, on April 11, 2005.

The Commissioner is hereby authorized to charge any additional fees which may be required at any time during the prosecution of this application without specific authorization, or credit any overpayment, to Deposit Account No. 16-0877.


Stephan A. Pendorf